

JUN 29 2010

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISIONU.S. DISTRICT COURT
WESTERN DISTRICT OF NC

RECEIVED

Case No.: 3:09cv401-RJC

JUN 21 2010

UNITED STATES OF AMERICA,)

v.)

APPROXIMATELY \$279,342.73 IN)
FUNDS SEIZED FROM ORANGE BANK)
OF FLORIDA ACCOUNT XXXXX3073,)
SUCH ACCOUNT HELD IN THE NAME)
OF AMERICAN EQUIPMENT LEASING,)
INC.)LOWNDES, DROSDICK,
DOSTER, KANTOR
& REED, P.A.**CONSENT ORDER FOR
THIRD PARTY CLAIMS**

This matter is before the Court by consent of the United States of America, by and through Anne M. Tompkins, United States Attorney for the Western District of North Carolina, Orange Bank of Florida, and Bank of America. By submission of this Consent Order to the Court, the Government, Orange Bank, and Bank of America have advised the Court of the following and the COURT SO FINDS AS FOLLOWS:

1. The Court has jurisdiction over the \$279,342.73 in defendant funds (hereafter, the Funds) by virtue of a seizure warrant issued in Case 3:09MJ103 (Dkts. 1 and 2) and an arrest warrant in rem issued and served in this case (Dkts. 15 and 16).

2. Orange Bank of Florida timely filed a claim (Dkt. 3) for the Funds and Bank of America timely filed a claim (Dkts. 6 and 8) for the Funds. After no other individual or entity filed a claim, this Court issued a Default Judgement of Forfeiture (Dkt. 17) in favor of the Government as to all persons in the world except for Bank of America and Orange Bank.

3. Orange Bank and Bank of America have advised the Court that Orange Bank and Bank of America had, independent of this civil forfeiture case, engaged in settlement negotiations regarding the Funds. Orange Bank and Bank of America, without admitting

liability or wrongdoing, have agreed to a confidential settlement (hereafter, the Settlement) and have advised the Government and herein advise the Court that the Settlement contains the following provision for inclusion in this Order:

The Parties agree that the United States government shall release the Seized Funds into the possession and ownership of Bank of America.

4. The Government has advised the Court that the Government initially filed this civil forfeiture action for the purpose of obtaining title to the Funds and that, had this Court issued a judgment of forfeiture, the U.S. Attorney's Office had planned to recommend that the Attorney General turn-over the Funds, via the petition for remission and mitigation process authorized by 18 U.S.C. § 981(d), to numerous financial entities, including Bank of America and Orange Bank, which the Government believed had been victimized by the violations set forth in the Complaint.

5. In light of the fact that Orange Bank has withdrawn its Petition to the Funds herein rendering Bank of America as the only entity entitled to compensation and that Orange Bank and the Government will consent to turn-over of the Funds to Bank of America, the Government no longer believes that initiation of the remission/mitigation process is necessary and the parties believe that this proposed Consent Order would provide the most expedient means to remit the Funds to Bank of America without further litigation.

IT IS THEREFORE ORDERED THAT:

1. On the basis that the Government, Bank of America, and Orange Bank wish to settle this matter, the claim of Bank of America is granted and the Government is ordered to, as soon as practicable, turn-over the Funds to Bank of America, care of Robert A. Muckenfuss, Esq.

and Steven N. Baker, Esq., McGuire Woods LLP, 100 North Tryon Street, Charlotte, North Carolina 28202; and

2. Each party shall bear its own costs, including attorney's fees.

Signed this the 29 day of June, 2010.


ROBERT J. CONRAD
CHIEF UNITED STATES DISTRICT JUDGE

ON MOTION OF AND BY CONSENT OF THE PARTIES

FOR THE UNITED STATES OF AMERICA

ANNE M. TOMPKINS
United States Attorney



Benjamin Bain-Creed
Special Assistant United States Attorney

Date: 6/28/10

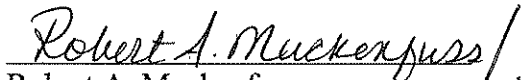
FOR BANK OF AMERICA



Title: VICE PRESIDENT

Authorized representative with signatory
authority for Bank of America

Date: 6/24/10


Robert A. Muckenfuss
Attorney for Bank of America

Date: 6/25/10


Steven A. Baker

with permission by Steven N. Baker

Date: 6/25/10

Attorney for Bank of America

FOR ORANGE BANK OF FLORIDA

Tracy G. Ireland
Title: EVP

Authorized representative with signatory
authority for Orange Bank of Florida

Date: 6/17/10

Matthew G. Brenner
Matthew G. Brenner
Attorney for Orange Bank of Florida

Date: 6/21/10